

Department of Labor and Industries

-- policy continues on reverse of page --

IV. Special Enforcement and Consultation Protocols

a. *How are WISHA staff expected to apply the PPE standard to issues regarding body armor?*

WISHA enforcement and consultation staff are expected to apply the standard as appropriate under the following general guidance:

1. Because of the nature of law enforcement, any law enforcement employer must assess the need for body armor in order to adequately meet the employer's obligations under the standard (see WRD 32.00). Other employers can reasonably be expected to assess the need for body armor whenever firearms are worn or whenever the employer can reasonably anticipate that employees may be shot at in the course of their duties (see WRD 5.05 for guidance in assessing workplace violence risks).
2. If the employer's assessment documents a need for body armor, the employer must provide the necessary body armor, ensure that it fits, ensure that employees are trained in its use and limitations, and ensure that it is worn when necessary (regardless of whether the employee may exceed the employer's policies at his or her discretion, the employer must determine when body armor is minimally necessary and *require* its use at such times).
3. Although the standard does not enable WISHA consultation or enforcement staff to simply substitute their judgment for that of the employer, the employer's PPE assessment must be a credible one (for example, a police department's assessment indicating that its armed police officers *never* have a need for body armor – or that wearing body armor is *always* at the officer's discretion – is unlikely to be accepted as credible).

B. *What special review requirements exist when an employer is being cited for failure to provide body armor?*

When an inspector or consultant applying the above guidance identifies a PPE violation, he or she shall issue the appropriate citation(s) under WAC 296-800-160. Any citation based on a determination that body armor is required or that an employer's body armor assessment and practices are not credible (although they might otherwise meet the requirements of WAC 296-800-160) shall be issued only after consultation with WISHA Policy and Technical Services.

Approved: _____

Michael Wood

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For further information about this or other WISHA Regional Directives, you may contact WISHA Policy & Technical Services at P.O. Box 44648, Olympia, WA 98504-4648 -- or by telephone at (360)902-5503. You also may review policy information on the WISHA Website (<http://www.wa.gov/lni/wisha>).